IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2382 OF 2006

Mohammed Yusuf Dawood Tinwala — Petitioner
vs.
The Union of India & anr. — Respondents

Mr.J.G.Shukla for the petitioner.

None for the respondent no.1.

Mr.K.R.Belosay for respondent no.2.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 19th October, 2006

P.C.

Heard the learned counsel for the petitioner. None appears for the respondents though served firstly by advocate G.H.Shukla & Co. by letter dated 15.9.2006. The matter was heard on 29.9.2006. None appeared for the respondent no.1 (Union of India) on that day. The matter was closed for orders on 3.10.2006. On 3.10.2006, the matter was adjourned for two weeks for re-service. As directed, the petitioner's advocate again served the respondents as reflected in the letter dated 5.10.2006 on 5.10.2006 and 9.10.2006. On 19.10.2006 no one appeared again on behalf of respondent no.1.

2. The petitioner has prayed in the present petition that his passport bearing No.A-2052382 which is valid upto 2.2.2017 be amended and the date of birth be corrected as 15.8.1958 instead of 23.11.1954. The petitioner was born at Bombay on 15.8.1958. The birth certificate issued by the Brihan-mumbai Mahanagar Palika is at Exhibit "A". The petitioner has also obtained school leaving certificate which also reflects his correct date of birth as 15.8.1958. Though the petitioner had obtained the passport on 13.5.1977 for the first time, it was valid till 12.6.1982. The second passport in question was obtained on 3.2.1997 and which is valid till 2.2.2017. As averred, the Regional Passport Office has corrected the date of birth of the petitioner as 23.11.1954. Though his correct date of birth is 15.8.1958. The petitioner therefore after discovering the said mistake approached the Regional Passport Office, Bombay and orally requested the concerned officer to make necessary rectification. Same was not done. Therefore the present petition.

3. The petitioner at present is working at Dubai as supervisor and, therefore, the aforesaid correction is necessary as it will affect his service record. This Court in Writ Petition No.1803/2006 after considering the affidavit filed by the respondents and based on the case of J.H.Shah vs. Union of India, 2001(1)

Mh.L.J.483, observed as under:

> "4. The reliance has been placed on **J.H.Shah vs. Union of India, 2001(1) Mh.L.J. 483,** wherein a Division Bench of this Court has directed the Passport Authority to hold an enquiry in the matter; and after hearing the parties and in case the Passport Authority satisfies with regard to the claim put forthwith by the parties, the necessary changes be made in the Passport already issued.
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> 5. After considering the facts of the present case and the judgement in J.H.Shah (supra), we are of the view that the Respondents-Authority should hold an enquiry by itself and /or through the Police Agency and after hearing the petitioner and subject to their satisfaction, a necessary change be made in regard to the date of birth. The matter be disposed of within a reasonable time without delay."

4. This Court cannot direct to correct the birth date as prayed, without due and proper enquiry by the respondents. However, in view of the above, the order passed by this court in the matter of Jayesh Ratilal Balsara (Writ Petition No.1803/2006) and specially para 5 as quoted above, dispose of the present petition with the following directions:

(i) The respondents-Authority should hold an enquiry by itself and/or through the Police Agency and after hearing the petitioner and subject to their satisfaction, a necessary change may be made in regard to the date of birth in

accordance with law.

(ii) The matter be disposed of within a reasonable time.

5. The petition stands disposed of accordingly. No order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)